

REMARKS:

Claims 1, 7-17, 20-34, 36-40, and 42-77 were presented for examination and were pending in this application. In an Official Action dated July 27, 2004, claims 1, 7-17, 20-34, 36-40, and 42-77 were rejected. Applicant amends claim 72 herein. Applicant thanks Examiner for examination of the claims pending in this application and addresses Examiner's comments below.

Applicant kindly requests entering of the amendments to claim 72, which are simply formalistic in nature and do not narrow or otherwise alter the scope of protection provided by the claim. Further, based on the following Remarks, Applicant respectfully requests that Examiner reconsider all outstanding rejections, and withdraw them.

Response to Rejection Under 35 USC 103(a) in View of Anderson and Boudrow and

Eng

In the 5th paragraph of the Office Action, Examiner rejects claims 1, 7-17, 20-34, 36-40, and 42-77 under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 6,078,892 to Anderson et al. ("Anderson") in view of Boudrow, Chamber Referral Program Not for All Real Estate Agents ("Boudrow"), and further in view of Eng, Information Interview Put a Job Search on the Fast Track, ("Eng"). Applicant respectfully traverses this rejection.

Claims 1, 7-17, 20-24, 39, 40, and 42-44

Independent claim 1 recites, *inter alia*,

moving the lead from an active set of the electronic lead database
to a selected set of the electronic lead database for a
predetermined time period, wherein leads in the selected set
cannot be provided to a second sales agent; and

sending a first confirmation message to the lead prior to the sales agent contacting the lead, the first confirmation message for introducing the lead to the sales agent.

Similarly, independent claim 39 recites, *inter alia*,

program instructions for moving the lead from an active set of the electronic lead database to a selected set of the electronic lead database for a predetermined time period, wherein leads in the selected set cannot be provided to a second sales agent; and
program instructions for sending a first confirmation message to the lead prior to the sales agent contacting the lead, the first confirmation message for introducing the lead to the sales agent.

In addition to the advantageous push features of the claimed invention, moving the leads from an active set of the lead database to a selected set of the lead database for a predetermined time period makes the leads unavailable to other sales agents. This feature beneficially provides a time period of exclusive access to a lead by a single sales agent who has selected the lead. A benefit of this feature is that the sales agent does not compete with other sales agents for the same lead at the same time. In addition, the lead, for example, a potential customer, is only actively being pursued by a single sales agent avoiding multiplicity of calls or other contacts. Further, “sending a first confirmation message to the lead prior to the sales agent contacting the lead” advantageously provides a great improvement in the state of the art by beneficially introducing the lead to the sales agent prior to the lead being contacted by the sales agent. By the time the sales agent contacts the lead, the lead is already expecting the contact. This serves to increase the chance of a successful contact eliminating the need for cold-calling by agents.

In contrast, the combination of Anderson with Boudrow and Eng simply discloses a lead database that provides searching and pre-scoring of leads for sales agents (see Anderson,

Abstract) with the notion of “giving agencies a 30-day exclusive leads for a \$100 payment per quarter,” (Boudrow, p.1, ¶ 6) and the notion of “consider[ing] first sending a letter or e-mail and informing [their] contact that [the interviewee himself or herself] will be calling to ask to set up and interview” for potential interviewees who must cold-call the interviewer (Eng, p.2, ¶ 23).

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). “All words in a claim must be considered in judging the patentability of that claim against the prior art.” *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). See MPEP sec 2143.03. Further, “[u]nder the patent statute, Title 35 U.S.C., “ideas” are not patentable; claimed structures and methods are. Reducing a claimed invention to an “idea,” [e.g., exclusive leads] and then determining patentability of that “idea” is error.” *Jones v. Hardy*, 727 F.2d 1524, 1527-28, 220 USPQ 1021, 1024 (Fed. Cir. 1984).

The combination of Anderson, Boudrow, and Eng fails to teach or suggest sending a message to the lead “prior to the sales agent contacting the lead” as recited in claims 1 and 39. As Examiner stated, Anderson does not teach this step. Eng does not teach this step either. The Eng reference teaches the idea of “a person sending an introductory e-mail to inform a contact that the person will be calling to set up an interview with the contact in the future (¶ 23).” Accordingly, Eng teaches that the same person may contact (through mail or e-mail) another person prior to contacting by phone. Therefore, Eng does not teach or suggest “sending a first confirmation message to the lead prior to the sales agent contacting the lead” because if the letter or e-mail of Eng is sent by the same person that does the calling, then it cannot possibly be “prior to the sales agent contacting the lead.”

Accordingly, Applicant respectfully submits that for at least these reasons claims 1 and 39 and their dependent claims 7-17, 20-24, 40, and 42-44 are patentably distinguishable over the cited references, both alone and in combination. Therefore, Applicant respectfully requests that Examiner reconsider the rejections, and withdraw it.

Claims 25-30, 45-60, 61-66, and 72-77

Independent claim 25 recites, *inter alia*,

sending a lead selection to the electronic lead database, the lead selection indicating that the sales agent has selected the lead, the sales agent for contacting the lead to determine interest in at least one of a product and a service, wherein the lead in the electronic lead database is moved to a selected set of the electronic lead database for a predetermined time period after sending the lead selection; and

sending a first confirmation message to the lead prior to the sales agent contacting the lead, the first confirmation message for introducing the lead to the sales agent.

Similarly, independent claim 45 recites, *inter alia*,

sending a first electronic confirmation message to the lead prior to the sales agent contacting the lead, the first electronic confirmation message for introducing the lead to the sales agent.

In like manner, independent claim 61 recites, *inter alia*,

sending a lead selection to the electronic lead database, the lead selection indicating that the sales agent has selected the lead, wherein in response to sending the lead selection to the electronic lead database and prior to the sales agent contacting the lead, an electronic message is sent to the lead for introducing the lead to the sales agent.

In like manner, independent claim 72 recites, *inter alia*,

program instructions for providing an electronic message to the lead prior to the sales agent contacting the lead, the

In addition to other deficiencies, the combination of Anderson, Boudrow, and Eng does not teach, suggest, or otherwise disclose all the elements of claims 1 and 39. For example, in this combination of references there is no “active set of the electronic lead database,” or any “selected set of the electronic lead database.” Accordingly, at least the step of “moving the lead from an active set of the electronic lead database to a selected set of the electronic lead database” as recited in claims 1 and 39 is not taught or suggested by the cited combination of references.

In particular, neither Anderson nor Boudrow (or their combination) teaches accomplishing the idea of “exclusive leads” suggested in Boudrow in the manner recited in Applicant’s claimed invention, i.e., by “moving the lead from an active set of the electronic lead database to a selected set of the electronic lead database for a predetermined time period, wherein leads in the selected set cannot be provided to a second sales agent.” At most, Boudrow suggests the idea of providing exclusive leads for a number of days. However, the combination of Anderson, Boudrow, and Eng are silent as to how this is accomplished. In fact, the database in Anderson could be modified in any number of ways to accomplish that idea, for example, by disabling the contact information downloading feature for already selected leads (see Anderson, col. 3, lines 37-40). The combination of references does not show or suggest implementing the idea of “exclusive leads” by the method step of “moving the lead from an active set of the electronic lead database to a selected set of the electronic lead database for a predetermined time period” as recited in claims 1 and 39. The Examiner’s assertion that it would have been obvious to modify the Anderson system to perform Applicant’s claimed invention of claims 1 and 39 is based on impermissible hindsight reconstruction using Applicant’s claimed invention.

electronic message for introducing the lead to the sales agent.

Claim elements in claims 25, 45, 61 and 72 include limitations that are not shown or suggested by the combination of Anderson, Bourdow, and Eng as explained above with respect to claims 1 and 39. For example, claim 25 includes the limitation that “the lead in the electronic lead database is moved to a selected set of the electronic lead database for a predetermined time period.” Claims 25, 45, and 72 include the limitation of sending or transmitting “a ... message to the lead prior to the sales agent contacting the lead.” Claim 61 recites the related limitation of “in response to sending the lead selection to the electronic lead database and prior to the sales agent contacting the lead, an electronic message is sent to the lead for introducing the lead to the sales agent.” As shown above with respect to claims 1 and 31, none of these limitations are shown or suggested by the combination of Anderson, Boudrow, and Eng.

Accordingly, Applicant respectfully submits that for at least these reasons claims 25, 45, 61, and 72 and their dependent claims 26-30, 46-60, 62-66, and 73-77 are patentably distinguishable over the cited references, both alone and in combination. Therefore, Applicant respectfully requests that Examiner reconsider the rejections, and withdraw it.

Claims 31-34, 36-38, and 67-71

Independent claim 31 recites, *inter alia*,

- a timing unit configured to move the lead from an active set of the electronic lead database to a selected set of the electronic lead database for a predetermined time period; and
- an input/output unit communicatively coupled to the administrative unit and configured to transmit a first confirmation message to the lead prior to the sales agent contacting the lead, the first confirmation message for introducing the lead to the sales agent.

Similarly, independent claim 67 recites, *inter alia*,

an input/output-unit coupled to the administrative unit for providing electronic messages to the sales agent and to the lead in response to the administrative unit receiving a lead selection from the sales agent, wherein the input/output unit is configured to transmit a first confirmation message to the lead prior to the sales agent contacting the lead, the first confirmation message for introducing the lead to the sales agent.

In addition to the advantageous push features of the claimed invention, a timing unit configured to move leads from an active set of the lead database to a selected set of the lead database for a predetermined time period makes the leads unavailable to other sales agents. This feature beneficially provides a mechanism for the claimed system to provide exclusive access to a lead for a period of time to a single sales agent who has selected the lead. A benefit of this feature is that the sales agent does not compete with other sales agents for the same lead at the same time. In addition, the lead, for example, a potential customer, is only actively being pursued by a single sales agent avoiding multiplicity of calls or other contacts.

Further, “an input/output unit communicatively coupled to the administrative unit and configured to transmit a first confirmation message to the lead prior to the sales agent contacting the lead” advantageously provides a great improvement in the state of the art by beneficially providing a mechanism for the system to introduce the lead to the sales agent prior to the lead being contacted by the sales agent. By the time the sales agent contacts the lead, the lead is already expecting the contact. This serves to increase the chance of a successful contact eliminating the need for cold-calling by agents.

In contrast, the combination of Anderson with Boudrow and Eng simply discloses a lead database that provides searching and pre-scoring of leads for sales agents (see Anderson,

Abstract) with the notion of “giving agencies a 30-day exclusive leads for a \$100 payment per quarter,” (Boudrow, p.1, ¶ 6) and the notion of for potential interviewees who must cold-call the interviewer, “[to] consider first sending a letter or e-mail and informing [their] contact that [the interviewee himself or herself] will be calling to ask to set up and interview” (Eng, p.2, ¶ 23).

To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. *In re Royka*, 490 F.2d 981, 180 USPQ 580 (CCPA 1974). "All words in a claim must be considered in judging the patentability of that claim against the prior art." *In re Wilson*, 424 F.2d 1382, 1385, 165 USPQ 494, 496 (CCPA 1970). See MPEP sec 2143.03. Further, “[u]nder the patent statute, Title 35 U.S.C., “ideas” are not patentable; claimed structures and methods are. Reducing a claimed invention to an “idea,” [e.g., exclusive leads] and then determining patentability of that “idea” is error.” *Jones v. Hardy*, 727 F.2d 1524, 1527-28, 220 USPQ 1021, 1024 (Fed. Cir. 1984).

Examiner stated that the limitations of this claim had already been addressed with respect to claims 1, 7-17, and 20-30 and that the same rejection applied to claims 31 and 67 among others. However, none of method claims 1, 7-17, and 20-30 recite the claimed elements of system claims 31 and 67. For example, claims 1, 7-17, and 20-30 do not recite a timing unit, an administrative unit, or an input/output unit. Accordingly, Examiner has failed to establish a *prima facie* case of obviousness with respect to system claims 31 and 67 and their dependent claims 32-34, 35-58 and 68-71 and thus their rejection lacks proper basis.

Moreover, in addition to other deficiencies, the combination of Anderson, Boudrow, and Eng does not teach, suggest, or otherwise disclose all the structural elements recited in claims-31 and 67. For example, in this combination of references there is no teaching or

suggestion of “a timing unit,” or “an input/output unit communicatively coupled to the administrative unit.”

Further, as previously discussed above with respect to claims 1 and 39, the combination of Anderson, Boudrow, and Eng also fails to teach or suggest the limitations of “mov[ing] the lead from an active set of the electronic lead database to a selected set of the electronic lead database for a predetermined time period” as recited in claim 31 and of “transmit[ing] a first confirmation message to the lead prior to the sales agent contacting the lead” as recited in claims 31 and 67. For example, Anderson does not teach a system with an input/output unit “configured to transmit a first confirmation message to the lead prior to the sales agent contacting the lead” as recited in claims 31 and 67. Eng does not teach this element either. The Eng reference teaches the idea of “a person sending an introductory e-mail to inform a contact that the person will be calling to set up an interview with the contact in the future (§ 23).” Accordingly, the idea Eng teaches is that the same person may contact (through mail or e-mail) the other person prior to contacting by phone. Therefore, Eng does not teach or suggest “an input/output unit communicatively coupled to the administrative unit and configured to transmit a first confirmation message to the lead prior to the sales agent contacting the lead” because Eng suggest that the same person sends the letter or e-mail before calling—there is not suggestion of an input/output unit configured to transmit anything; the person does it himself or herself.

Accordingly, Applicant respectfully submits that for at least these reasons claims 31 and 67 and their dependent claims 32-34, 35-58 and 68-71 are patentably distinguishable over the cited references, both alone and in combination. Therefore, Applicant respectfully requests that Examiner reconsider the rejections, and withdraw it.

Conclusion

In sum, Applicant respectfully submits that claims 1, 7-17, 20-34, 36-40, and 42-77, as presented herein, are patentably distinguishable over the cited references, alone or in combination. Therefore, Applicant requests reconsideration of the basis for the rejections to these claims and request allowance of them.

In addition, Applicant respectfully invites Examiner to contact Applicant's representative at the number provided below if Examiner believes it will help expedite furtherance of this application.

Respectfully Submitted,
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